

Remarks

This Amendment is responsive to the Office Action dated August 4, 2003. Original claims 1-14 and reissue claims 15-21 are present.

1. The obligations are noted.

2,3. Claims 1-21 are rejected as based upon a defective reissue Declaration. The reissue declaration clearly states that the patentee claimed more or less than he had a right to claim in the patent, and that matter invented by the inventors and disclosed in said patent but not claimed are added in claims 15-21. Thus, the error is not having claimed disclosed matter invented by the inventors. However, in order to advance the prosecution, a new declaration is provided which states "One error upon which reissue is based is the failure to claim matter invented by the inventors and disclosed in said patent." Reconsideration and withdrawal of the rejection of claims 1-21 based upon a defective declaration is hereby requested.

Rejections - § 112

1,2. Claims 15 and 20, apparently, are rejected on the allegation "while being enabling for the pressure of the reactant gas stream being between 2 p.s.i. and 3 p.s.i. higher than the pressure of the coolant stream, the specification does not reasonably provide enablement for the pressure being higher than the pressure of the coolant stream." This does not make any sense. Further along in the rejection, it is admitted that "The specification recites that the coolant water operates at a pressure differential of about 2-3 p.s.i. Less than the reactant fluid...." understanding the rejection to be that the specification recites coolant water pressure less than reactant fluid pressure, whereas the subject claims recite reactant fluid pressure higher than coolant pressure, the rejection is totally ill-founded. Certainly, if the specification recites $A > B$, this is adequate support for a claim of $B < A$. However, in the interest of advancing the prosecution of the case, claims 15 and 20 have been rewritten to be in the sense of the coolant water being

at a pressure lower than the reactant fluid. Thus, this ground of rejection has been obviated.

In the copy of the rejection which was mailed, in paragraph 2 of the rejection, claims 16 and 21 were typewritten, but apparently crossed out by slashes in ink which appears to match the ink of the signature. Therefore, it is assumed that claims 16 and 21 were not rejected, and in the presence of the corrected declaration are therefore allowed.

3. Claim 19 is rejected as not being enabled, alleging that the specification is not enabling; in column 7, lines 54 et seq., the specification describes a commercially available product. Is it the contention of the PTO that an engineer skilled in fuel cells could not buy that product and use it in the invention?

The rejection also alleges that the specification "appears to limit the substrate layer to a carbon-carbon fibrous composite with the requisite porosity." There is no statement in the rejection about where in the specification the appearance of the limit can be found. In fact, the specification is actually delimiting at column 7, lines 54 and 55 where it is stated "The first and second substrate layers 46, 50 may be a porous carbon-carbon fibrous composite having approximately 65 to 75% porosity...." Porosity is a mechanical characteristic, not a chemical characteristic. Applicants are entitled to claim disclosed subject matter as broadly as the prior art allows. Therefore, reconsideration and withdrawal of this -112 rejection of claim 19 is hereby respectfully requested.

Claims 15, 19 and 20 (apparently) are rejected as being based upon new matter. The new matter is "means for creating" and "creation" of pressure difference between reactant gas and coolant. However, claim 19 contains no reference to pressure, reactant gas stream and coolant. Therefore, withdrawal of this rejection with respect to claim 19 is requested.

Claims 15 and 20 have been rewritten: in claim 15, a "source providing said coolant stream" is element 14 in Fig. 1. For claim 20, the language at column 8, lines 19-22 provides adequate support: "operates at a pressure differential of about 2-3 p.s.i. less than the reactant fluid 12." Therefore, reexamination of claims

15 and 20 and allowance over the new matter rejection is hereby respectfully requested.

Should the foregoing not be persuasive, a telephone call is earnestly solicited.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "M. P. Williams", is written over a horizontal line.

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